

DOJ Confides Disloyalty to US Const.

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> In December 1997, the United States Department of Justice received a letter
> from a group which put forward the position that the right to keep and bear
> arms was a right held by individuals, predated the Constitution, and was
> simply affirmed and guaranteed by the second Article of the Bill of Rights,
> not granted by it.

> Recently they got their reply, having waited only three months. In a
> letter dated March 18, 1998, the Department of Justice (DOJ), in the person
> of James S. Reynolds, Chief of the Terrorism and Violent Crime Section,
> answered this assertion with a listing of citations of case law, as handed
> down by the Supreme Court and various U.S. Courts of Appeal over the last
> sixty years. In these cities, it is asserted that the Constitution does not
> grant a right to individuals to own and use firearms.

> All appeared well. The DOJ was in agreement. Not quite. The DOJ went
> on to assert that because the Constitution is not the source of rights,
> that at least one of the rights it guarantees does not exist. Reynolds
> asserts that these court decisions supersede the Constitution, and that the
> right does not exist because the courts have said it does not exist,
> regardless of what the Constitution says on the matter.

> The reply concludes by quoting from a letter from Mary C. Lawton,
> Deputy Assistant Attorney General, Office of Legal Counsel, to George Bush,
> Chairman, Republican National Committee (July 19, 1973): "...it must be
> considered as settled that there is no personal constitutional right, under
> the Second Amendment, to own or use a gun." Mr. Reynolds further confides
> that this loyalty to the courts, not the Constitution is the position of
> the current Department of Justice, and that this position has long been
> held by the Department under both Democratic and Republican
> administrations.

> Gun control activists have expressed their satisfaction over this
> position, and state their intention to further press for limits on
> individual freedom to own and use of firearms. Several have noted, however,
> that the blunt statement expressed in this letter from the Department of
> Justice will likely infuriate the legions of American gun rights activists,
> and may well make the slow, steady elimination of firearms from personal
> possession all the more difficult.

> Gun rights activists also take the position that the Constitution
> "grants" no rights whatsoever. They cite Thomas Jefferson's Declaration of
> Independence, wherein Jefferson states that men "...are endowed by their
> Creator" with rights, and that therefore, the Constitution is only the
> government's solemn written contract to preserve the preexisting rights.
> Some say this point is blatantly contradicted in the Department of Justice

> letter, and by several of the case law cites which are invoked to support
> their position.

> These gun rights adherents further cite the wording of the Bill of
> Rights itself, which states in part that "...the right of the people to keep
> and bear arms shall not be infringed." They note that where the phrase "the
> people" is used in all other parts of the Constitution, it invariably and
> inarguably means, and is universally accepted as "the collection of
> individual Americans."

> Strict Constitutional constructionists, they attack the Justice
> Department's reliance on case law, and claim that the Department of
> Justice's reliance upon "the Courts'" opinions is akin to the defendants at
> Nuremberg (war criminals trials after World War II) claiming to be
> "following orders," and point out that each Constitutional officer is
> required to swear an individual oath to the Constitution, not the courts.
> They say that Article VI of the Constitution requires strict adherence by
> all legislative, executive, and judicial officers to the Constitution, not
> the courts.

> They further cite Jefferson's Declaration of Independence, pointing
> out that this foundation of American government requires that the people
> alter or abolish any government which fails to support the premise of
> individual rights, subsequently guaranteed by the Constitution. They allege
> that any judge (or any government employee) who has taken the position that
> government is not absolutely bound to support individual rights over the
> delegated power of government is in violation of their oath of office, and
> has thus vacated their office and their authority.

> The Department of Justice's position is currently demonstrated in
> several situations present in the news, most recently in the arrest of
> several men in Michigan, accused of possessing what the Department of
> Justice refers to as "illegal firearms." One of the firearms in question is
> called, by government attorneys, a "sniper rifle accurate to over a mile."
> At least one of the defendants in that case is alleging in his defense that
> there is no such thing as an "illegal firearm" when possessed by a free
> American.

> A gun rights and citizens' militia activist was interviewed at a
> shooting range, and prior to the interview, used a bolt action rifle with
> telescopic sights to demonstrate the accuracy of the firearm. From a
> sandbagged position, he fired several shots in succession at targets not
> visible to the naked eye at the considerable distance covered. Upon
> examination, several soft drink bottle caps and brass shell casings were
> observed with bullet holes through them. He referred to the firearm as "a
> deer rifle."

> The man, who spoke with the assurance of anonymity, scoffed at the
> promised anonymity. "They know who I am," he stated. When questioned who
> "they" were, he replied "the government-- or, I should say, their secret
> police."

> Pushed for an explanation, he pointed out that this reporter had no

> difficulty in locating a spokesman for the gun activists' viewpoint. He
> further pointed out that he was routinely contacted at home by various
> representatives of the media. He then asserted that government employees
> were indeed anonymous, removed from the citizenry over whom they allege
> control, and that they were following the same path embarked upon by
> representatives of King George in colonial times in the effort to further
> their unlawful control over the citizenry.

> This gentleman asserted that the founders of the United States
> pointedly affirmed the right of Americans to keep and bear arms, ascribed
> the success of the revolution against England to the armed citizenry, and
> trumpeted the American government as being qualitatively different from all
> the other governments of the world, in that the government not only trusted
> the citizenry to be armed, but in fact depended upon the citizens' armament
> to maintain their hard-won freedom.

> "King George assumed the power to disarm Americans, and his
> representatives attempted to exercise that power," he stated. "That
> government was proven to be in error."

> Not all gun rights activists, however, are so alienated by the
> actions and attitude of the DOJ. The National Rifle Association, a long
> time supporter of law enforcement, successfully lobbied for passage of HR
> 666 in January of 1995. This law allows warrantless search and seizure.
> Some have alleged that it has completely compromised the Fourth Amendment.
> The Department of Justice maintains the position stated in the referenced
> letter.

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